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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,855	11/19/2003	Francois Kubica	245493US41X CONT	5604
22850	7590	07/28/2004	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			NGUYEN, THU V	
		ART UNIT		PAPER NUMBER
		3661		

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/715,855	KUBICA, FRANCOIS	
	Examiner Thu Nguyen	Art Unit 3661	<i>MW</i>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 19 November 2003.  
 2a) This action is **FINAL**.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-20 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-20 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 19 November 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. 09/863,894.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/19/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Drawings***

1. Figures 1-2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground

provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3:73(b).

3. Claims 1-20 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 of U.S. Patent No. 6,694,230 (patent '230 hereinafter). Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-20 disclose the same subject matters taught in claims 1-3 of the patent '230 in broader scope by eliminating some limitation such as using exclusively one calculation means, defining the guidance instruction including the heading, vertical speed, etc. taught in lines 8 and 10-11 of claim 1 of patent '230.

#### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pages (US 5,774,818) in view of Trikha (US 6,003,811).

As per claim 1-2, 6, 11, Pages teaches a system for operating an aircraft, the system comprising: a navigation computer 12 (fig.4) and a flight control computer 13 (fig.4). The navigation computer 12 (fig.4) comprises: a first input (from 16 (fig.4)) to receive guidance instruction (col.5, lines 22-35); a second input (from 15 (fig.4)) configured to receive guidance parameters (col.5, lines 36-38); an output (to PA 13 (fig.4)) to output automatic pilot instruction (col.5, lines 43-46). The flight control computer comprises: a second input generator (connected to 12 (fig.4)) to receive to receive automatic pilot instructions (col. 5, lines 43-46); a command generator to generate a first plurality of operating commands based on the automatic pilot instructions in an automatic pilot mode (col.5, lines 47-52). Pages does not explicitly disclose a first input of the flight control computer 13 (fig.4). However, Pages teaches an interface 18 (fig.4) capable of displaying suggestion to the user of the control the pilot should make, and in manual mode, the pilot can input such the control according to the suggestion (col.5, lines 52-55; col. 4, lines 51-54). Further, Trikha teaches a known flight control computer 26 (fig.1) capable of processing both manual input 18 (fig.1) and autopilot input 25 (fig.1) control instructions. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to include the first manual input interface taught by Trikha to the flight control computer 13 (fig.4) of Pages in order to allow the flight control computer to provide commands to the actuators according to the manual input data.

As per claim 3, Pages teaches a third input (from 15 (fig.4)) for receiving control parameters (col.5, lines 47-49).

As per claim 4-5, Pages teaches a single control function 13 (fig.4) embedded in the flight control computer 13 (fig.4).

As per claim 7, since Trikha teaches a flight control computer using either the input from the autopilot or the manual control for determining desired actuator surface commands (col.3, lines 7-24), the inputs from the automatic device and from the manual device would obviously correspond in nature so that alternate input data can be used in determining the actuator surface command.

As per claim 8-10, Trikha teaches providing control instructions including desired change in the aircraft flight path (col.3, lines 7-10), further, using vertical load factor, roll rate, yaw as parameters reflecting the flight path would have been well known. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use parameters such as vertical load factor, roll rate, and yaw as indication in the change of the flight path in the system of Pages in order to facilitate calculating desired control to the airplane surfaces using the direct control parameters such as the vertical load factor, etc.

As per claim 12-20, refer to claims 1-11 above.

**Any response to this action should be mailed to:**

Art Unit: 3661

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 305-7687, (for formal communications intended for entry)

**Or:**

(703) 305-7687 (for informal or draft communications, please label

"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park V, 2451  
Crystal Drive, Arlington, VA., Seventh Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Nguyen whose telephone number is (703) 306-9130. The examiner can normally be reached on Monday-Thursday from 8:00 am to 6:00 pm ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black, can be reached on (703) 305-8233. The fax phone number for this Group is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1111.

  
**THU V. NGUYEN**  
**PRIMARY EXAMINER**  
July 24, 2004